

PATENT

ATTY. DOCKET: D4701-00198

III. Remarks

Claims 1-75 are pending in the current application. Applicants are grateful to the Examiner for recognizing the allowable subject matter in Claims 6, 7, 11-12, 20-21, 39-42, 47, 57-59 and 64. Reconsideration and withdrawal of the rejection of the remaining claims are respectfully requested in view of the foregoing amendments and following arguments.

A. Summary of Amendments

The following claims have been amended to correct apparent typographical errors.

Claim 6 has been amended to correct "ore" to "or" (line 9) and "first said" to "said first" (line 17).

Claim 14 has been amended to correct "sate" to "state" (lines 4, 6)

Claim 20 has been amended to correct "ore" to "or" and to correct "said plurality of classroom teachers" to "said first plurality of employees" (lines 11-12) to be consistent with the rest of the claim.

Claim 30 has been canceled, as it was repetitive of Claim 14.

Claim 37 has been amended to correct "represents" to "represent".

Claim 40 has been amended to correct "ore" to "or" (line 9) and "first said" to "said first" (line 17).

Claim 41 has been amended to correct "data is" to "data are" (line 1). Claim 41 has also been amended to remove an extra "and" (line 15).

Claim 44 has been amended to correct "sate" to "state" (lines 4, 6).

Claim 46 has been amended to correct the dependency of the claim.

PATENT**ATTY. DOCKET: D4701-00198**

Claim 47 has been amended to correct the dependency of the claim, to correct "ore" to "or" (line 9) and to correct "said plurality of classroom teachers" to "said first plurality of employees" (lines 11-12).

Claim 48 has been amended to correct two recitations of "said plurality of classroom teachers" to "said first plurality of employees".

Claim 54 has been amended to correct "represents" to "represent" (line 2).

Claim 57 has been amended to correct "ore" to "or" (line 9) and "first said" to "said first" (line 17).

Claim 58 has been amended to correct "data is" to "data are" (line 1). Line 58 has also been amended to remove an extra "and" (line 15).

Claim 61 has been amended to correct "sate" to "state" (lines 4, 6).

Claim 63 has been amended to correct the dependency of the claim.

Claim 64 has been amended to correct the dependency of the claim, to correct "ore" to "or" (line 9) and to correct "said plurality of classroom teachers" to "said first plurality of employees" (lines 11-12).

Claim 65 has been amended to correct two recitations of "said plurality of classroom teachers" to "said first plurality of employees".

B. Rejection under 35 U.S.C. §102(a)

After withdrawing the Notice of Allowance, the Action again rejects Claims 1-3, 8-10, 15-17, 22-29, 31-38, 45, 48-55, 62, and 65-74 as being anticipated by Denison Consulting Leadership Development Surveys (online citation omitted). Applicants have previously

PATENT**ATTY. DOCKET: D4701-00198**

overcome an anticipation rejection of these claims based on Denison. In this new rejection, the Examiner repeats the prior rejection and adds the following reasoning:

The co-workers' perception of the environment is considered to be evaluation data that represents the impression of the individual regarding the environment, as "perception" and "impression" are synonymous in meaning. While the surveys in Denison are directed to elicit information on an individual's skills and practices, the individual's skills and practice are considered to be an aspect/characteristic/dimension of the environment. The receiving of a summary report by the individual responsible for the environment is considered to be receiving a selection of one or more dimensions of an environment from an individual as a summary report would contain all of the specific aspects of the environment evaluated. Denison indicates that the action plan is directed to improving specific areas of individual strength and weakness which are considered to be a dimension of an environment.

Action, p.p. 3-4. The additional reasoning provided by the Examiner indicates a misunderstanding of what is claimed (e.g., the meaning of terms such as "environment", "dimension" and "characteristic") and/or what is disclosed by Denison (e.g., how the "survey" is used). Reconsideration and withdrawal of the rejection of the claims are respectfully requested in view of the following arguments.

Independent Claim 1 will be addressed as exemplary. Claim 1 is directed to a method of assisting in the development of an "environment". First, evaluation data for an environment received from at least one individual participating in an environment are received with a computer processor unit. The evaluation data represent the impressions of the individual regarding the environment. An example of an evaluated "environment" described in the Specification is a "classroom climate." Certainly, other climates, such as business climates, can be an environment that is evaluated. Importantly, the term "climate", and thus "environment", is used to represent the "collective perception of students [or other individuals] regarding the overall classroom learning [or other] environment. The climate provides information on students' [or other individuals'] perceptions of how it feels to be in a particular teacher's class [or other organization] in relation to every student's motivation to learn and perform to the best

PATENT**ATTY. DOCKET: D4701-00198**

of his or her abilities." ¶27. The first recited step of Claim 1, therefore, requires the receipt of evaluation data identifying the one or more individuals' feelings about their overall climate (i.e., work or classroom), e.g., how it feels to be somewhere, such as in or a part of a certain work or class group.

The recited evaluation data are higher level data than the evaluation data identified by the Examiner in the Denison methodology. Denison does not teach the step of receiving evaluation data for the environment from at least one individual participating in the environment where the evaluation data represent impressions of the individual regarding the environment. In the rejection, the Examiner notes that Denison teaches use of a "survey." However, the "survey" seems to be directed to a manager's individual skills and practices, which are low level, specific inquiries regarding specific practices, not the overall "climate" or "environment" as described above (and recited in the claims) that is potentially effected by those skills or practices. As noted, an environment is the sum total of what it feels like to be in a classroom, for example, not individual skills. Simply, inquiring into individual skills or practices is not inquiring into the sum total climate or environment that results from those individual skills or practices. The Examiner's reasoning is inconsistent with, and makes superfluous, Applicants' express recitations of "environment", "dimension" and "characteristics" and their relationship set forth in the claims.

Claim 1 also requires that model data are provided to an individual that is responsible for the environment (e.g., a teacher in a classroom environment) where the model data represent one or more dimensions of the environment. The model data are developed at least in part from the evaluation data. As used in the Specification, a dimension is a component of an environment (described above) that contributes to the environment, not a skill or practice of an individual. For example, extensive research has shown that a classroom climate can be modeled by one or more dimensions or factors that have a statistically significant correlation with student achievement. For example, research has shown that a classroom climate can be modeled by nine dimensions that impact significantly on students' motivation – (a) clarity (the transparency and

PATENT

ATTY. DOCKET: D4701-00198

explicit relevance of what goes on in class); (b) order (discipline and structure in the classroom); (c) standards (expectations of achievement and encouragement to improve); (d) fairness (justice and equality within the classroom); (e) participation (student involvement and influence in the running of the class); (f) support (encouragement to try new things and learn from mistakes); (g) safety (absence of threat or fear); (h) interest (stimulation and fascination in class); and (i) environment (the comfort and attractiveness of the physical environment). ¶35 Each dimension, which can be considered a subcomponent of the overall environment, is associated with at least one characteristic of the individual (e.g., teacher) responsible for the environment. A "characteristic" is a pattern of behavior exhibited by an individual. Various characteristics and groups of characteristics effect or contribute to respective dimensions of the overall environment. (Specification, Paragraph 28-33).

It is important, therefore, to understand that "environment" represents the overall climate of a classroom or work group, for example. The environment can be broken down and modeled as different dimensions, or sub-components of an overall environment. Certain personal characteristics of an individual in charge of a particular environment effect or are "associated with" individual ones of the dimensions. "Dimensions" are not "characteristics" as used in this application and claims.

The Examiner's statement that "the individual's skills and practice are considered to be an aspect/characteristic/dimension of the environment" is completely inconsistent with Applicant's express and distinct recitation of "environment", "dimension" and "characteristics" and their relationship set forth in the claims. Applicants do not use these terms interchangeably in the specification or the claims, and submit that the Examiner should not do so.

As understood by the Applicants and explained above, the Denison survey is low level in that it is directed specifically to particular skills and practices of the person in charge of an environment, not the environment itself. It follows, that the summary report provided to that individual, which the Examiner concludes is model data, does not represent the one or more

PATENT

ATTY. DOCKET: D4701-00198

dimensions of the environment, but rather individual skills of the person. These skills may effect a dimension, which effects an environment, but the summary report is not "model data representing one or more dimensions of said environment." The second recited step of Claim 1 makes clear that there is a distinction between a "dimension" and a "characteristic" by reciting "each of said one or more dimensions being associated with at least one characteristic of said individual responsible for said environment." Therefore, the providing model data step of Claim 1 is neither taught nor suggested by Denison.

Third, Claim 1 recites that a selection of at least one of the dimensions received from the individual responsible for the environment (e.g., the teacher) is received by a computer processor unit. Basically, a selection or identification of a dimension is received from the individual responsible for the environment and this selection is then received by the computer processor unit. In one example, the teacher directly selects a dimension using a computer. The Examiner concludes that "[t]he receiving of a summary report by the individual responsible for the environment is considered to be receiving a selection of one or more dimensions of an environment from an individual as a summary report would contain all of the specific aspects of the environment evaluated." It appears that the Examiner has confused what is being received and by whom. In Denison, the survey results are provided to the manager. This step may be most akin to the model data providing step of Claim 1, as concluded by the Examiner in the Action. The result of this receiving step, however, requires that something be received from the individual responsible for an environment, specifically a selection or choice of a particular dimension. It is simply inconsistent for the Examiner to conclude that providing the summary report in Denison somehow teaches both the providing model data and receiving a selection steps of Claim 1.

Denison is not particularly clear as to how the Summary Report is used once it is received by the individual, but it is clear that the Summary Report is provided to the individual being evaluated, and is not a selection received from the individual. Denison does not disclose that anything is received from the individual responsible for the environment via the Summary

PATENT**ATTY. DOCKET: D4701-00198**

Report, and, specifically, does not disclose receipt of a particular dimension selected by the individual.

Regardless, Denison does not provide a method where an environment is modeled by its individual dimensions. It follows that Denison does not receive a selection from the individual responsible for an environment of at least one dimension of an environment being modeled.

Fourth, Claim 1 recites that an action plan is provided to the individual responsible for said environment for improving at least one characteristic associated with said selected dimension. As described above, the individual of Denison does not select a dimension, and thus no action plan can be provided for a characteristic associated "with said selected dimension."

For at least these reasons, Claim 1 is not anticipated by Denison. Claims 2-35 depend from Claim 1 and are also not anticipated.

Independent Claim 36, directed to a computer-readable medium, recites features discussed above and is also not anticipated by Denison. Claims 37-52 depend from Claim 36 and are also not anticipated.

Independent Claim 53, directed to a data signal, parallels the features of Claim 36 and is also not anticipated by Denison. Claims 54-69 depend from Claim 53 and are also not anticipated.

Independent Claim 70 recites the steps of receiving evaluation data for an environment from at least one individual participating in the environment representing impressions regarding the environment and providing model data to an individual responsible for the environment where the model data represent one or more dimensions of the environment. As discussed above, Denison does not teach the step of receiving evaluation data representing impressions of an environment or providing model data representing dimensions of the environment. It is

PATENT

ATTY. DOCKET: D4701-00198

submitted, therefore, that Claim 70 is not anticipated by the Denison. Claims 71-75 depend from Claim 70 and are also not anticipated by Denison.

Reconsideration and withdrawal of the anticipation rejection of the Claims are respectfully requested.

C. Rejections under 35 U.S.C. §103

The Action rejects Claims 4 and 18 as being obvious over Denison in view of Wadahama (U.S. Patent No. 6,024,577) and Claims 5, 13, 19, 30, 39, 43-44, 46, 56, 60-61, 63 and 75 over Denison. As noted above, these claims depend from allowable independent Claims 1, 36, 53 and 70. Reconsideration and withdrawal of these rejections are respectfully requested.

D. Claims 3, 17, 38, 45, 55, and 62

Claims 3, 38, and 55 all recite that the environment is a classroom teaching environment, that the at least one individual participating in the environment includes a plurality of students, and that the individual responsible for the environment is a classroom teacher. Denison clearly does not disclose or suggest that its methodology could be applied to the classroom environment. Denison discusses use of the system by "managers". Applicants submit that teachers are not typically referred to as "managers". Further, students in a classroom are not "coworkers" as recited by Denison. Therefore, Claims 3, 38 and 55, and Claims 4-12, 37-41 and 56-59, which depend from these claims, are independently allowable over Denison.

Claims 17, 45 and 62 recite that the environment is a school environment. The individuals participating in the environment are school employees and the individual responsible for the environment is head teacher. Denison does not teach or suggest that its system and methodology are applicable to a school environment. First, a head teacher, e.g., principal, is generally not referred to as a "manager". Also, the entire context of the Denison disclosure appears to teach and suggest that it is applicable to the business environment, e.g., Mr. Denison was formerly of "University of Michigan Business School", aspects of an individual

PATENT**ATTY. DOCKET: D4701-00198**

"manager's" skills are measured, questions pertaining to "employee's understanding of a merger or acquisition" can be tested, etc. Therefore, Claims 17, 45 and 62, and Claims 18-29, 46-52 and 63-69, which depend from these claims, are independently allowable over Denison.

PATENT**ATTY. DOCKET: D4701-00198****IV. Conclusion**

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

If the Examiner should find that the foregoing does not place the application in condition for allowance, the Examine is invited to call the undersigned to discuss the details thereof before issuing a substantive action.

The Assistant Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1769.

Respectfully submitted,

Dated: June 23, 2004

Joseph A. Powers
Joseph A. Powers, Reg. No.: 47,006
Attorney For Applicants

DUANE MORRIS LLP
One Liberty Place
Philadelphia, Pennsylvania 19103-7396
(215) 979-1842 (Telephone)
(215) 979-1020 (Fax)

PHI\1210813.1

32